

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Applications of:)
JAMES A. KAY, JR.) Docket No. 94-147
Licensee of One Hundred Fifty-Two)
Part 90 Licenses in the)
Los Angeles, California, Area)

Courtroom A-363, Room 1
The Portals
445 12th Street, S.W.
Washington, D.C.

Tuesday,
January 12, 1999

The parties met, pursuant to the notice of the
Chief Judge, at 9:00 a.m.

BEFORE: HON. JOSEPH CHACHKIN
Chief Administrative Law Judge

APPEARANCES:

On behalf of James A. Kay, Jr.:

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Also on behalf of James A. Kay, Jr.:

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On Behalf of the Federal Communications
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Also on Behalf of the Federal Communications
Commission:

WILLIAM H. KNOWLES-KELLETT, ESQ.
Commercial Wireless Division
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On behalf of the Witness, Vincent Cordaro:

JON S. WALLUCK, ESQ.
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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Kevin Hessman	1795	1807	1813	--	--
Vincent Cordaro	1816	1885	1959	--	--

E X H I B I T S

	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
<u>Bureau's:</u>			
314	Prev.	1917	--
351	1840	1845	--
<u>Kay's</u>			
7	1812	1813	--
8	1951	1953	--
9	1954	--	--

Hearing Began: 9:00 a.m.	Hearing Ended: 4:00 p.m.
Recess Began: 12:30 p.m.	Recess Ended: 2:00 p.m.

P R O C E E D I N G S

1
2 JUDGE CHACHKIN: Yesterday afternoon when I
3 returned to my office, I received this letter from the
4 Bureau cross-referencing the exhibits entered in the Sobel
5 proceeding with the exhibits entered in evidence in this
6 proceeding.

7 I do not recall, but with all these exhibit
8 numbers now, has all the cross-referencing been completed?

9 MR. SCHAUBLE: I believe so, Your Honor.

10 JUDGE CHACHKIN: So there is no need for the
11 information on this being put in the proceeding? Is that
12 correct?

13 MR. SCHAUBLE: Your Honor, perhaps what I could do
14 is just to make doubly clear --

15 JUDGE CHACHKIN: And make a simple point of
16 reference?

17 MR. SCHAUBLE: A simple point, just stated on the
18 record, Your Honor. Would you --

19 JUDGE CHACHKIN: Sure.

20 MR. SCHAUBLE: Okay. In the Sobel proceeding, WTB
21 Exhibit No. 1 is in this proceeding WTB Exhibit No. 331. In
22 the Sobel proceeding, WTB Exhibit No. 19 is marked for
23 identification as WTB Exhibit No. 332. That was rejected.
24 In the Sobel proceeding, WTB Exhibit No. 20 was marked for
25 identification in this proceeding as WTB Exhibit 333 and

1 rejected.

2 In the Sobel proceeding, WTB Exhibit No. 21 was
3 marked for identification in this proceeding as WTB Exhibit
4 No. 334 and rejected. In the Sobel proceeding, WTB Exhibit
5 No. 22 was marked for identification in this proceeding as
6 WTB Exhibit No. 335 and rejected. In the Sobel proceeding,
7 WTB Exhibit No. 23 was marked for identification in this
8 proceeding as WTB Exhibit No. 336 and rejected.

9 In the Sobel proceeding, WTB Exhibit No. 24 was
10 marked for identification as WTB Exhibit No. 337 and
11 rejected. In the Sobel proceeding, WTB Exhibit No. 25 in
12 this proceeding was admitted into evidence yesterday as WTB
13 Exhibit No. 338. In the Sobel proceeding, WTB Exhibit No.
14 38 was received in evidence in this proceeding as WTB
15 Exhibit No. 339. In the Sobel proceeding, WTB Exhibit No.
16 39 was received in evidence as WTB Exhibit No. 340 in this
17 proceeding.

18 WTB Exhibit No. 40 in the Sobel proceeding was
19 received in evidence in this proceeding as WTB Exhibit No.
20 341. In the Sobel proceeding, WTB Exhibit No. 42 was marked
21 for identification as WTB Exhibit No. 342 and rejected. In
22 this proceeding, WTB Exhibit No. 44 from the Sobel
23 proceeding was received in evidence in part in this
24 proceeding as WTB Exhibit No. 343, and in the Sobel
25 proceeding, WTB Exhibit No. 47 was marked for identification

1 as WTB Exhibit No. 344 and rejected.

2 Also, I would note that what was received in
3 evidence as WTB Exhibit 341 in the Sobel proceeding is
4 contained within WTB Exhibit 342 in this proceeding, and
5 also what was received in evidence as WTB Exhibit 43 in the
6 Sobel proceeding is part of WTB Exhibit 343 in this
7 proceeding.

8 JUDGE CHACHKIN: Thank you very much. All right.
9 Are we ready to proceed now?

10 MR. SCHAUBLE: Your Honor, I do have a preliminary
11 matter, and that is concerning your ruling of yesterday --

12 JUDGE CHACHKIN: Yes?

13 MR. SCHAUBLE: -- concerning the testimony of
14 Deborah Marshall, Tony Marshall and Jeffrey Cohen.

15 JUDGE CHACHKIN: Oh, yes. Yes.

16 MR. SCHAUBLE: The way the Bureau would like to
17 proceed is to interview these witnesses, not have a court
18 reporter present, but to --

19 JUDGE CHACHKIN: All right.

20 MR. SCHAUBLE: -- be able to tape the witnesses
21 and have the witnesses state that they are declaring under
22 penalty of perjury that what they are testifying to, that
23 what they are stating is true and correct to the best of
24 their knowledge.

25 My understanding from discussions with counsel for

1 Kay is that the Marshalls will be coming in tomorrow.

2 MR. SHAINIS: Yes.

3 MR. SCHAUBLE: What we would like to do is defer
4 the start of the proceeding tomorrow while we have an
5 opportunity to talk to them.

6 JUDGE CHACHKIN: Do you mean you will finish your
7 case today?

8 MR. SCHAUBLE: We are anticipating that, Your
9 Honor.

10 JUDGE CHACHKIN: All right. So when will they be
11 coming in tomorrow?

12 MR. SHAINIS: Well, they are flying in early this
13 evening, and what I had discussed with the Bureau is that
14 they would be available to talk with them at 9:00 tomorrow
15 morning.

16 In fairness to the Bureau, the Bureau had
17 requested earlier, but since their bodies are going to be
18 telling them it is three hours earlier, I just thought that
19 9:00 would --

20 JUDGE CHACHKIN: How much time will you need to
21 talk to them?

22 MR. KNOWLES-KELLETT: We are somewhat in the dark,
23 but we hope to get done in an hour per witness.

24 JUDGE CHACHKIN: All right. So we could start
25 this proceeding at 11:00 a.m.?

1 MR. KNOWLES-KELLETT: We would like a few minutes
2 to confer after we talk with them, if that is okay, like
3 11:15 or 11:30 a.m.

4 JUDGE CHACHKIN: Fine, or we could start after
5 lunch if you need that. Whatever you want to do. We
6 could --

7 MR. KNOWLES-KELLETT: We could take an early lunch
8 and start at 12:30 p.m. if that would work. I do not know
9 what Your Honor's schedule is.

10 JUDGE CHACHKIN: I do not care. We will have an
11 early lunch and start at 12:30 p.m.

12 MR. SCHAUBLE: That is fine, Your Honor. My
13 understanding is that Jeffrey Cohen would be coming in and
14 would be available to talk to on Thursday, the 14th.

15 MR. SHAINIS: Yes.

16 MR. SCHAUBLE: We anticipate, again, we probably
17 need about an hour.

18 JUDGE CHACHKIN: Well, then we will start that
19 proceeding at 10:00 a.m.

20 MR. SCHAUBLE: Okay. Thank you, Your Honor.

21 JUDGE CHACHKIN: All right. Who is the next
22 witness?

23 MR. KNOWLES-KELLETT: Kevin Hessman, Your Honor.

24 Present in the courtroom is Jon Walluck. He is
25 counsel for Vince Cordaro, who will be the second witness

1 today.

2 JUDGE CHACHKIN: All right. Would you raise your
3 right hand, please?

4 Whereupon,

5 KEVIN HESSMAN

6 having been first duly sworn, was called as a witness herein
7 and was examined and testified as follows:

8 JUDGE CHACHKIN: Please be seated.

9 DIRECT EXAMINATION

10 BY MR. KNOWLES-KELLETT:

11 Q Good morning.

12 A Morning.

13 Q Would you please state your name and business
14 address for the record?

15 A Kevin Hessman, and that's ADD Security, 5400 West
16 Rosecrans, Hawthorne, California.

17 Q Okay. The Judge in this case has entered a
18 Sequestration Order. Have you spoken with anyone who has
19 testified about their testimony?

20 A No.

21 Q Okay. After you finish testifying today, the
22 Sequestration Order would prohibit you from talking to Mr.
23 Cordaro, who will be the Bureau's last witness, but given
24 that you will just pass in the hall, you will probably only
25 have one minute to screw up. Provided you do not do that,

1 you will be fine.

2 JUDGE CHACHKIN: That is pretty blunt language.

3 MR. KNOWLES-KELLETT: I will try to keep it clean,
4 Your Honor.

5 BY MR. KNOWLES-KELLETT:

6 Q Okay. I am going to ask you a series of
7 questions. If my questions are in any way unclear, please
8 let me know.

9 I do not want you answering something different
10 than I think I am asking, okay, so if you want me to
11 clarify, if you do not understand the terms, let me know
12 right away.

13 A All right.

14 Q Is it correct that you were an employee of Mr.
15 Kay?

16 A Yes.

17 Q Okay. When did you come to be an employee of Mr.
18 Kay?

19 A May of 1990.

20 Q How did you come to be an employee of Mr. Kay?

21 A Through friends of mine, Roy Jensen and -- I can't
22 remember his name right now.

23 Q But basically through Roy Jensen, their
24 recommendation to Mr. Kay?

25 A Yes.

1 Q Okay. How long were you an employee of Mr. Kay?

2 A Until October of '93.

3 Q Okay. Please describe your duties while you
4 worked for Mr. Kay.

5 A I did all the purchasing, maintained the warehouse
6 and the inventory, wrote up all the service tickets for
7 incoming repair work. I think that was about the gist of
8 the duties.

9 Q Okay. Is it correct that you were employed
10 directly by Mr. Kay or a corporation he owned?

11 A Southland Communications. Through that
12 corporation.

13 Q Okay. Did you have duties with respect to Lucky's
14 Two-Way Radio?

15 A No.

16 Q What is Hessman Security? Are you familiar with
17 that entity?

18 A It doesn't exist.

19 Q Okay. Did you ever contemplate such an entity?

20 A No, not really.

21 Q Okay. How many mobiles did Hessman Security
22 operate?

23 A None.

24 Q Okay. Did you have radio licenses in your name
25 for Hessman Security?

1 A Yes. The radio licenses existed.

2 Q Okay. Would you please turn in the notebook in
3 front of you to WTB 308? I am sorry. Do you have the
4 notebook 291 to 328?

5 A It looks like it. I'm sorry. Which one am I
6 supposed to look at?

7 Q 308.

8 A Okay.

9 Q Can you describe what that is?

10 A That's the license I received from the FCC in the
11 mail.

12 Q Okay. Would you describe the circumstances under
13 which you received this license?

14 A A few months after I had begun working at
15 Southland, Roy Jensen and Jim approached me about finding
16 some FCC forms. I don't remember how many there were.
17 Maybe a half a dozen. I just signed them. I didn't fill
18 out anything else on them.

19 Roy said it was basically something to help Jim
20 with the business, and everyone else did it, and it was no
21 big deal.

22 Q Okay. Did Jim tell you anything at that time?

23 A I honestly don't remember how much Jim actually
24 said. I think Roy did most of the talking since we were
25 friends, and I really didn't -- I don't recall Jim saying

1 much of anything.

2 Q Okay. Do you remember who prepared the
3 applications?

4 A As far as I know, Jim.

5 Q But you do not have a specific recollection?

6 A No.

7 Q Were the forms filled out when you signed them?

8 A I don't think so, but I can't really say. As far
9 as I knew -- as far as I remember, I think they were just
10 blank forms, but I didn't really read them closely.

11 MR. SHAINIS: Your Honor, I would like to make an
12 objection. Mr. Schauble is coaching the witness somehow. I
13 have been seeing him coming out with the words on his mouth,
14 and I think it is improper.

15 JUDGE CHACHKIN: Mr. Schauble, I do not know if it
16 is something you can help voluntary or involuntary. I
17 noticed it in other cases, but I think to the extent that
18 you can refrain it would certainly be good.

19 MR. SCHAUBLE: Your Honor, it is not something I
20 am doing consciously.

21 JUDGE CHACHKIN: It has happened. I have noticed
22 it, and I recognize it is something that you cannot control
23 because it has been going on throughout the proceeding. I
24 do not know if you noticed it.

25 MR. SHAINIS: No.

1 JUDGE CHACKIN: Apparently it is something
2 involuntary.

3 MR. SHAINIS: Okay.

4 JUDGE CHACKIN: Is that not right, Mr. Schauble?

5 MR. SCHAUBLE: Yes, Your Honor.

6 JUDGE CHACKIN: I am sure he is not coaching the
7 witness. It is something that he cannot control.

8 MR. SHAINIS: Then I apologize.

9 JUDGE CHACKIN: All right.

10 MR. SCHAUBLE: I apologize, Your Honor. I will
11 work more consciously to --

12 JUDGE CHACKIN: That is why I did not raise
13 anything about it. I recognize it was nothing you could
14 control.

15 Go ahead.

16 MR. KNOWLES-KELLETT: Okay.

17 BY MR. KNOWLES-KELLETT:

18 Q Could you turn to WTB Exhibit 309?

19 A Okay.

20 Q Could you describe this document?

21 A It was another license I received.

22 Q Okay. Could you describe the circumstances under
23 which you received this document?

24 A The same as before. I think there were just these
25 two that -- originally the first one I received had like

1 less units on it or something. I received a couple
2 different copies over the year or two period. I think these
3 were the last ones.

4 Q Okay. Can you see how many units WTB Exhibit 309
5 was authorizing?

6 A All right. Up at the top, 16 vehicle, eight
7 portable.

8 Q Right. Do you see the license issue date in the
9 top right-hand corner?

10 A Yes. February 24, 1994. No. That's the date it
11 was cancelled. I'm sorry.

12 Q The license issue date is --

13 A Oh, there it is.

14 Q -- 4-29-92. Do you see that?

15 A 1992.

16 Q Turning back to 308, and I apologize. That was
17 April of '92. Turning back to 308, this is July '92?

18 A July of 1992, right.

19 Q Okay. How many units did this authorize?

20 A I see 36 vehicle, 37 portable.

21 Q Do you recall a reason why you would need to go
22 from 24 units under one call sign to 70 some under the
23 other?

24 A No. I had no idea what the licenses were for.

25 Q Okay. Do you recall that the mobiles were to

1 operate on Mr. Kay's repeater?

2 A I was never told if they were specifically going
3 to be operated on any repeaters or anything. I was never
4 told anything about the license.

5 Q Okay. Did you ever have any other conversations
6 with Mr. Kay other than the day he brought you the forms
7 regarding --

8 MR. SHAINIS: Objection. Finish the question.

9 BY MR. KNOWLES-KELLETT:

10 Q Please describe any other conversations you have
11 had with Mr. Kay other than the day he brought you these
12 forms.

13 MR. SHAINIS: Objection. That is so over broad.

14 MR. KNOWLES-KELLETT: Any other conversations
15 regarding these licenses. I apologize.

16 MR. SHAINIS: Thank you for the clarification.

17 THE WITNESS: I recall when I received them in the
18 mail I think I asked Jim if he wanted these copies or
19 something like that along those lines, and he said no, that
20 it was no big deal. He had all the paperwork he needed.

21 BY MR. KNOWLES-KELLETT:

22 Q Okay. Were there any other conversations
23 regarding these licenses?

24 A I don't think so. Not that I recall.

25 Q Were there any other conversations regarding any

1 other licenses you might have received?

2 A No.

3 Q Did you ever do any volunteer work under the name
4 Hessman Security?

5 A No.

6 Q Okay. Did you ever do any public safety work,
7 volunteer work?

8 A Yes, I did.

9 Q Okay. Did you use Southland or Lucky's Two-Way
10 Radios in that work?

11 MR. SHAINIS: Objection. Leading the witness.

12 MR. KNOWLES-KELLETT: It is just background to get
13 into the area, Your Honor.

14 JUDGE CHACHKIN: I will overrule that objection.

15 THE WITNESS: So I can answer?

16 JUDGE CHACHKIN: Yes.

17 THE WITNESS: Yes. Once or twice we -- I did use
18 Southland Communication rental radios.

19 BY MR. KNOWLES-KELLETT:

20 Q Okay. How many radios did you use in that work?

21 A Just for those specific occasions? I think it was
22 in the area of about 20 hand-held radios.

23 Q Okay. How far in advance did you ask Kay to do --

24 A Well, I actually never arranged it. I was just a
25 part of the group that volunteered. Brad Braverman was more

1 or less the coordinator of those.

2 Q So you did not discuss this volunteer work with
3 Mr. Kay directly?

4 A (Non-verbal response.)

5 MR. SHAINIS: Objection. Leading the witness.

6 JUDGE CHACHKIN: Well, the answer is no. I will
7 allow the answer. Is that correct?

8 THE WITNESS: The answer is no.

9 JUDGE CHACHKIN: You have to answer. You cannot
10 just shake your head.

11 THE WITNESS: Sorry.

12 JUDGE CHACHKIN: The reporter is not going to get
13 it.

14 BY MR. KNOWLES-KELLETT:

15 Q What was the function of the work that you engaged
16 in?

17 A I was a volunteer --

18 MR. SHAINIS: What work?

19 MR. KNOWLES-KELLETT: The volunteer work where he
20 used the Southland radios. Thank you.

21 THE WITNESS: The Los Angeles Police Department
22 had drunk driving watches on during the evenings, and a
23 group of 20 or 30 people would pair up in vehicles.
24 Actually, it was more than that, I guess; 40 people, two
25 people to a car.

1 We'd pair up, and we'd use the radios to drive
2 around the area. If we saw drunk drivers, we would be able
3 to call into the base, and LAPD would send a black and white
4 out to pull over the car.

5 BY MR. KNOWLES-KELLETT:

6 Q Okay. Would you say this was a public safety
7 function?

8 A Definitely.

9 MR. SHAINIS: Objection. Leading the witness.

10 JUDGE CHACHKIN: Overruled.

11 THE WITNESS: Yes, definitely.

12 BY MR. KNOWLES-KELLETT:

13 Q Do you recall the dates on which you did this
14 volunteer work?

15 MR. SHAINIS: Objection on relevancy.

16 JUDGE CHACHKIN: Overruled.

17 THE WITNESS: No. I think there was only twice
18 that I did that using Southland Communication radios. I
19 couldn't really narrow down the dates.

20 BY MR. KNOWLES-KELLETT:

21 Q So it was somewhere in the '91-'93 time frame when
22 you were employed, but you can give no better estimate?

23 A No. I can't narrow it down any more than that.

24 Q Okay. Did you have any duties with respect to
25 rental radios at Mr. Kay's shop?

1 A Yes. Basically the radios were all kept in the
2 warehouse, and I would issue them out when the salespeople
3 would write up rental orders.

4 Q Okay. How many rental radios did the shop have?

5 A Hand-held portable units, I think at least 60,
6 maybe up to 80. I can't remember specifically. There
7 were -- from time to time, a lot of them were out of service
8 for various repairs and whatnot, but I think a total of at
9 least 60.

10 Q Okay. How many mobile units?

11 A There were a handful of mobiles. Maybe up to ten
12 or 12.

13 Q Okay. What frequencies were these radios on?

14 A There were all in the 500 megahertz range.

15 Q Did you have any duties with respect to demo
16 units?

17 A Sure. We'd have to -- depending on what they were
18 going to be used for, they'd be programmed by the repair
19 techs or whatnot, and I would schedule and write up that and
20 then issue them out just like the rentals at the service
21 counter there when whoever was going to demo them came to
22 pick them up.

23 Q Do you know how many demo units there were?

24 A Just a handful of those. I don't really
25 specifically remember.

1 Q What frequencies did the demos use?

2 A I think the demos were pretty much all on like an
3 800 trunking setup.

4 MR. KNOWLES-KELLETT: No more questions, Your
5 Honor.

6 JUDGE CHACHKIN: Cross-examination?

7 MR. SHAINIS: Yes, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. SHAINIS:

10 Q Just a few questions, Mr. Hessman. Mr.
11 Knowles-Kellett asked you about rentals and demos. Were
12 there also loaners?

13 A Sure, but the same radios --

14 Q Yes or no, please?

15 A Yes.

16 Q When did you first become aware of an entity that
17 was called Hessman Security?

18 A I believe Jim suggested the name when he and Roy
19 first approached me about signing it. I think he just
20 suggested just -- well, actually I don't remember if he
21 suggested it then or later or if I just noticed it on the
22 license when it came.

23 Q Okay.

24 A It definitely didn't come from me. I don't think
25 so.

1 Q It definitely did not come from you as to --

2 A Well, there is no Hessman Security.

3 Q When you received the license, you saw on it your
4 name, d/b/a Hessman Security. Is that correct? These are
5 the licenses referred to in the exhibits that you testified
6 about, Exhibits No. 308 and 309.

7 A I'm sorry. What's the question?

8 Q Well, look at Exhibit 308, please, which I believe
9 is in front of you.

10 A Okay.

11 Q It is addressed to Hessman, Kevin, d/b/a Hessman
12 Security, at an address in Los Angeles. Is that correct?

13 A Yes.

14 Q Whose address is that?

15 A That is my mother's house.

16 Q All right. When you got this, you got it in the
17 mail. Is that correct?

18 A Yes.

19 Q Okay. And you opened the envelope?

20 A Yes.

21 Q And you read it presumably?

22 A Yes.

23 Q Okay. And you saw that it was addressed to you,
24 d/b/a Hessman Security. Is that correct?

25 A Yes.

1 Q Did you do anything about it at that time if it
2 was incorrect?

3 A Did I do anything about it?

4 Q You are saying now that there was no such thing as
5 Hessman Security.

6 A Right.

7 Q Therefore, this document may have been in error.
8 Is that correct? Just a simple yes or no.

9 A Did I think the document was in error when I first
10 saw it? No.

11 Q Okay. If I asked you the same questions
12 concerning Exhibit No. 309, would your answers be the same?

13 A Yes, but --

14 Q Just yes or no.

15 A Yes.

16 MR. SCHAUBLE: Your Honor, if the witness needs to
17 explain something, I think the witness should have the
18 opportunity.

19 MR. SHAINIS: The witness can certainly do that on
20 redirect, any explanation, Your Honor. I was simply asking
21 a yes or no question.

22 JUDGE CHACHKIN: All right.

23 MR. SHAINIS: Thank you.

24 BY MR. SHAINIS:

25 Q Mr. Hessman, why did you leave the employ -- you

1 were working for Lucky's. Is that correct?

2 A No. I was working for Southland Communication.

3 Q I am sorry. Southland. Why did you leave the
4 employ of Southland?

5 A Jim let me go.

6 Q Okay. Why did he let you go?

7 A Well, his first reason was he was cutting back on
8 personnel, and then when I asked him for a letter regarding
9 that he changed it that he was just letting me go for other
10 reasons, I guess. I don't remember exactly what he said he
11 was letting me go for at the time he let me go.

12 Q So you were fired? Is that correct?

13 A Yes.

14 Q Were you fired for cause?

15 A According to Jim, yes.

16 Q Okay. At one point did you not claim that you
17 were not fired for cause?

18 A Yes. I filed for an unemployment claim.

19 Q What was the result of that?

20 A I lost.

21 MR. SHAINIS: Okay. Your Honor, I would like to
22 approach the witness if I might.

23 (Pause.)

24 JUDGE CHACHKIN: All right. What did you want?

25 MR. SHAINIS: I am going to show it to the

1 witness.

2 JUDGE CHACHKIN: All right. Go ahead. This is
3 your only copy?

4 MR. SHAINIS: Actually, I do have more copies.

5 BY MR. SHAINIS:

6 Q Mr. Hessman, I am showing you a document from the
7 California Unemployment Insurance Appeals Board, and it is a
8 decision of Administrative Law Judge Inglewood. Have you
9 ever seen this document before?

10 A Yes.

11 Q Would you just take a minute or two to review the
12 document to the extent you need it?

13 A Sure.

14 MR. KELLER: Your Honor, while the witness is
15 reviewing that, I would just clear up the record. The
16 Administrative Law Judge is J. S. Berger. It is from the
17 Inglewood Office of Appeals.

18 MR. SHAINIS: I am sorry.

19 MR. KELLER: Just to clarify.

20 (Pause.)

21 BY MR. SHAINIS:

22 Q Are you finished reviewing that?

23 A Sure.

24 Q Now, in this document does it make a finding that
25 you submitted false information in order to obtain

1 unemployment benefits?

2 A I guess it came to that conclusion. I don't know
3 if it said that specifically in here.

4 MR. KNOWLES-KELLETT: Objection. The document
5 speaks for itself, Your Honor.

6 JUDGE CHACHKIN: I will overrule the objection.

7 MR. SHAINIS: Thank you.

8 BY MR. SHAINIS:

9 Q On page 3, if you go to the bottom of the third
10 paragraph, and I am going to read it. "Since the claimant's
11 false information caused the Department to overpay benefits,
12 it is not against equitable conscience to require
13 repayment." Do you see the words false information?

14 A Yes.

15 MR. SHAINIS: Okay. Your Honor, I would like this
16 identified as Kay Exhibit 7. I believe that is the next.

17 JUDGE CHACHKIN: The document will be so
18 identified.

19 (The document referred to was
20 marked for identification as
21 Kay Exhibit No. 7.)

22 MR. SHAINIS: I am going to hand the court
23 reporter two copies of the exhibit, and I would like it to
24 be admitted.

25 JUDGE CHACHKIN: Any objection?

1 MR. KNOWLES-KELLETT: No objection.

2 JUDGE CHACHKIN: Okay. Kay Exhibit 7 is received.

3 (The document referred to,
4 having been previously marked
5 for identification as Kay
6 Exhibit No. 7, was received in
7 evidence.)

8 MR. SHAINIS: Thank you. Just a moment, Your
9 Honor.

10 (Pause.)
11 Nothing further.

12 JUDGE CHACHKIN: Any redirect?

13 MR. KNOWLES-KELLETT: Yes, Your Honor. Just a
14 couple questions.

15 REDIRECT EXAMINATION

16 BY MR. KNOWLES-KELLETT:

17 Q How many loaners were there?

18 A I don't recall them being specifically classified
19 as loaners. I think they were part of the rentals and the
20 demos.

21 Q What was your reaction when you received licenses
22 in the name of Hessman Security?

23 A Well, looking back on it now, I remember I wasn't
24 surprised when I saw the name. I just don't remember if Jim
25 specifically told me at the time he was going to put it

1 under Hessman Security and suggested that.

2 I vaguely recall some sort of discussion about
3 that and just spitballing names of what to call it. I think
4 Hessman Security was what Roy and Jim and me just agreed on,
5 I think, at some time. It was no big surprise when I got
6 the licenses in that name.

7 Q What did you do when you got the licenses?

8 MR. SHAINIS: Objection. Vague. Over broad.

9 JUDGE CHACHKIN: Overruled. I mean sustained.

10 MR. KNOWLES-KELLETT: No more questions, Your
11 Honor.

12 JUDGE CHACHKIN: I gather you did not send the
13 licenses back to the Commission and say that there was no
14 such thing as Hessman Security. Is that correct?

15 THE WITNESS: No.

16 JUDGE CHACHKIN: But at some point you did cancel
17 the licenses?

18 THE WITNESS: Right. After I left Jim's employ.

19 JUDGE CHACHKIN: How did you go about doing that?

20 THE WITNESS: I remember Jim --

21 JUDGE CHACHKIN: The licenses were in your name, I
22 assume, and in your possession. Is that correct?

23 THE WITNESS: Yes. These copies were, yes.

24 JUDGE CHACHKIN: What did you do?

25 THE WITNESS: Well, I remember Jim said that the

1 trick to canceling a license was just get the original and
2 write canceled on it and mail it to the FCC and the license
3 would be canceled no matter who sent it in, so that's all I
4 did.

5 I took both originals and made copies for myself,
6 wrote "canceled" on them and stamped them "canceled"
7 actually and mailed them in to the FCC to have them
8 canceled.

9 JUDGE CHACHKIN: Anything further from this
10 witness?

11 MR. SHAINIS: No, Your Honor.

12 JUDGE CHACHKIN: You are excused. Thank you.

13 THE WITNESS: Thank you.

14 (Witness excused.)

15 (Whereupon, a short recess was taken.)

16 JUDGE CHACHKIN: Back on the record.

17 Would the witness step forward, please? Would you
18 raise your right hand, please?

19 Whereupon,

20 VINCENT CORDARO

21 having been first duly sworn, was called as a witness herein
22 and was examined and testified as follows:

23 JUDGE CHACHKIN: Is this the witness under
24 subpoena?

25 MR. SCHAUBLE: Yes, Your Honor.

1 JUDGE CHACHKIN: All right.

2 MR. SCHAUBLE: I would also note that his
3 counsel --

4 JUDGE CHACHKIN: Would counsel identify himself,
5 please?

6 MR. WALLUCK: Jon Walluck for Vincent Cordaro.

7 JUDGE CHACHKIN: I assume, counsel, you are
8 familiar with Section 127 of the rules dealing with the
9 rights of counsel for witnesses?

10 MR. WALLUCK: I am not familiar with that
11 particular section, Your Honor.

12 JUDGE CHACHKIN: That sets forth the rights of
13 counsel for witnesses.

14 DIRECT EXAMINATION

15 BY MR. SCHAUBLE:

16 Q Sir, will you please state your name and address
17 for the record?

18 A Vincent Cordaro, and present address is I'm just
19 in the middle of moving, so I can't have a present address.

20 Q Okay.

21 A So --

22 Q Do you have a business address?

23 A It's P.O. Box 6731, Thousand Oaks.

24 Q Okay. Mr. Cordaro, did you receive a subpoena to
25 testify in this hearing?

1 A My attorney did. He was served with a subpoena.

2 Q Did that subpoena compel you to produce certain
3 documents?

4 A I haven't seen the subpoena.

5 MR. WALLUCK: Your Honor, for the record, I
6 reviewed the subpoena on behalf of my client, and we did
7 present a document in response to that subpoena.

8 JUDGE CHACKIN: Okay. Thank you.

9 MR. SHAINIS: Excuse me. As I understood it, you
10 presented a document in response to the subpoena?

11 MR. WALLUCK: I presented a document to counsel,
12 to the Government, yes.

13 MR. SHAINIS: Did you file it with the Commission?

14 MR. WALLUCK: No. There was no requirement.

15 MR. SCHAUBLE: I am not aware of any requirement
16 that they do so, Your Honor.

17 MR. SHAINIS: I just asked if he did.

18 JUDGE CHACKIN: Go ahead.

19 MR. SCHAUBLE: Okay.

20 BY MR. SCHAUBLE:

21 Q Mr. Cordaro, who is your current employer?

22 A AT&T.

23 Q Okay. And what is your title there?

24 A RF Engineer.

25 Q Prior to working at AT&T, who was your employer?

1 A Southland Communications.

2 Q Okay. During what time period did you work at
3 Southland Communications?

4 A 1991. 1991 to I believe 1995.

5 Q Okay. What positions did you hold while
6 employment at Southland Communications?

7 A I was the service manager briefly. Then I was the
8 general manager/sales manager.

9 Q Okay. Is it correct that you held the title of
10 service manager at a different time --

11 A I held --

12 Q -- prior to the time you were sales manager/
13 general manager?

14 A I was service manager for approximately the first
15 year I was there.

16 Q Okay. And then after that period of time you were
17 the sales manager/general manager?

18 A Yes.

19 Q Okay. What were your duties during the time you
20 were service manager?

21 A As a service manager, I was responsible for the
22 technicians that repaired radios and installers that
23 installed equipment.

24 Q Okay. What were your duties as sales manager/
25 general manager?

1 A As a general manager, I was responsible for
2 overseeing the operations of the sales team that we had, the
3 general day to day functions of Southland Communications.

4 Q Okay. Now would you please describe the
5 circumstances as to how you came to work for Mr. Kay?

6 A I owned a company called Mobile Radio Service
7 Station, and Mr. Kay purchased my company in '91 or '92.

8 Q Okay. During what time period were you the
9 proprietor of Mobile Radio Service Station?

10 A I believe it was 1983 to probably 1991.

11 Q Okay. What was the business of Mobile Radio
12 Service Station?

13 A Mobile Radio Service Station was in the two-way
14 radio business. We serviced two-ray radios. We
15 occasionally sold two-way radios. We installed them.

16 Q Okay. Did Mobile Radio Service Station provide
17 repeater service to customers?

18 A No, sir.

19 Q Would Mobile Radio Service Station make
20 arrangements for customers to receive repeater service from
21 other dealers?

22 A Yes.

23 Q Are you familiar with Lucky's Two-Way Radio?

24 A Yes.

25 Q What is your understanding of what that entity is?

1 A Lucky's Two-Way is a repeater company.

2 Q Do you mean Mr. Kay's repeater company?

3 A Mr. Kay is the owner of Lucky's Two-Way, as far as
4 I know.

5 Q Okay. Now, during the time you were employed by
6 Southland, what duties, if any, did you have with respect to
7 Lucky's Two-Way Radio?

8 A I had no duties with Lucky's Two-Way.

9 Q During your employment at Southland, did you
10 interact in any way with Lucky's Two-Way Radio or its
11 employees?

12 A Yes.

13 Q Please describe the nature of that interaction.

14 A Well, Southland Communications supported the
15 installation and the selling of radios to put onto Lucky's
16 Two-Way.

17 Q When you interacted with Lucky's, who at Lucky's
18 would you generally interact with?

19 A They only had two employees. It would be either
20 James Kay or Barbara.

21 Q Do you remember Barbara's last name?

22 A Ashauer.

23 Q Mr. Cordaro, in connection with your duties as
24 sales manager/general manager at Southland, did you have any
25 duties with respect to Southland's computer system?

1 A Yes.

2 Q Okay. Would you please describe the nature of
3 those duties?

4 A I assisted in maintaining our local network on the
5 Southland.

6 Q Okay. Please describe the nature of --

7 A I would set up new workstations, run cables or
8 have one of the guys run the cables. I would purchase the
9 computer and the hardware that was needed.

10 Q Let me ask. During the time you were employed by
11 Southland, to your knowledge, did Lucky's Two-Way Radio have
12 a separate computer system from Southland?

13 A Yes. Yes.

14 Q Okay. Did you have any duties with respect to
15 maintaining Lucky's computer system?

16 A No.

17 Q Do you know who was responsible for maintaining
18 Lucky's computer system?

19 A I believe Craig Sobel.

20 Q Now, during the time you worked at Southland, were
21 there occasions at which you signed FCC application forms?

22 MR. SHAINIS: Objection. Leading the witness.

23 JUDGE CHACHKIN: Overruled.

24 BY MR. SCHAUBLE:

25 Q Do you need the question repeated, Mr. Cordaro?

1 A Yes.

2 Q Okay. While you worked at Southland, were there
3 occasions on which you signed FCC application forms?

4 A Yes.

5 Q Okay. Could you please describe the circumstances
6 under which you signed those forms?

7 A Can you be more specific?

8 Q Do you recall, did you sign such forms on one
9 occasion or multiple occasions?

10 A Multiple occasions.

11 Q Okay. Do you recall how many times you signed FCC
12 application forms?

13 A No.

14 Q On those occasions when you signed FCC forms, were
15 you ever asked by anyone to sign such forms?

16 A Can you restate your question, please?

17 Q Sure. When you signed these FCC application
18 forms, did you do so at somebody's request?

19 A Yes.

20 Q And who was that individual?

21 A James Kay.

22 Q Okay. Now, would it be correct that these
23 requests would take place at your place of employment?

24 A Yes. I'm sorry. At the time I was working?

25 Q Yes.

1 A In the time frame of Southland?

2 Q Yes.

3 A Yes.

4 Q Would you please describe the conversations you
5 had with Mr. Kay in which he requested that you sign FCC
6 application forms?

7 A Can you be more specific? There's many different
8 conversations. Anything --

9 Q Okay. Do you recall the first time Mr. Kay asked
10 you to sign FCC application forms?

11 A I don't recall specifically what our discussion
12 was.

13 Q Okay. Did Mr. Kay ever tell you why he was asking
14 you to sign FCC application forms?

15 A No.

16 Q Did Mr. Kay ever explain to you -- let me ask a
17 foundation question first. Did you in fact sign FCC
18 application forms at Mr. Kay's request?

19 A Yes, I did.

20 Q Okay. What happened to the forms after you signed
21 them?

22 A I would have -- excuse me. I would have signed
23 them in Jim's office and left them with him.

24 Q Okay. At the time you signed the forms, were the
25 forms completed?

1 A Yes.

2 Q Did you ever have any discussion with Mr. Kay
3 concerning the purpose of these applications?

4 MR. KELLER: Your Honor, I am going to object. I
5 think that has already been asked and answered at least once
6 and I think twice.

7 JUDGE CHACHKIN: Overruled.

8 THE WITNESS: Can you restate the question,
9 please?

10 MR. SCHAUBLE: Sure.

11 BY MR. SCHAUBLE:

12 Q Did you ever have any discussions with Mr. Kay as
13 to the purpose of these applications which you were signing?

14 A I don't recall any particular conversations.

15 Q Do you recall generally having conversations with
16 Mr. Kay on this point?

17 A No.

18 Q Mr. Cordaro, please turn your attention to the
19 notebook in front of you and turn to the document which is
20 Tab WTB Exhibit 319.

21 Mr. Cordaro, do you have the document before you?

22 A Yes.

23 Q Have you seen this document previously?

24 A Yes.

25 Q Do you recognize the handwriting on this document?

1 A Yes.

2 Q And whose handwriting is it?

3 A James Kay.

4 Q Okay. Do you recall? Did you receive this
5 document from Mr. Kay?

6 A Yes.

7 Q Do you recall approximately when you received the
8 document from Mr. Kay?

9 A I don't recall the exact date.

10 Q Do you have a recollection of which year you
11 received it?

12 A No, I do not.

13 Q Okay. Did you request this document from Mr. Kay?

14 A Yes, I did.

15 Q Could you please explain why you requested this
16 document?

17 A This was about the time I believe I was signing a
18 radio management agreement, and I was curious as to what my
19 name was on licenses. He produced this document for me.

20 Q Okay. First of all, Mr. Cordaro, turn your
21 attention to WTB Exhibit 322. Have you seen this document
22 before?

23 A Yes.

24 Q Would you please describe what it is?

25 A A radio system management and marketing agreement.

1 Q Is this the document you just referred to earlier
2 in your testimony?

3 A Yes.

4 Q Do you see the date on the document?

5 A Yes, I do.

6 Q And it is November 11, 1994?

7 A Yes.

8 Q Turn to the last page of the document. Is that
9 your signature under Vincent Cordaro, Licensee?

10 A Was that page 8 or page 9?

11 Q Page 9.

12 A Yes, it is.

13 Q Okay. Does that refresh your recollection as to
14 the approximate time frame when you received WTB Exhibit
15 319?

16 A I'm sorry. I didn't understand the question.

17 Q Okay. Does the date on the management agreement
18 refresh your recollection in any way as to when you received
19 the note which is Exhibit 319?

20 A Yes.

21 Q At the time you requested this note, is it correct
22 that you knew that there were FCC licenses in your name?

23 MR. SHAINIS: Objection. Leading the witness.

24 JUDGE CHACHKIN: I will overrule the objection.

25 THE WITNESS: Yes.

1 BY MR. SCHAUBLE:

2 Q Okay. At the time you requested the note, had you
3 ever previously seen copies of the licenses that are
4 referred to in this note?

5 A Are we talking multiple licenses?

6 Q I am talking the licenses described here in
7 Exhibit 319. Had you ever seen any of those licenses prior
8 to --

9 A I'm sorry. We're not talking about 322. We're
10 talking about 319?

11 Q 319.

12 A Okay. Can you restate your question, please?

13 Q Sure. Let me rephrase it. Prior to requesting
14 this note, had you seen a license in your name for an SMRS
15 base station at Rasnow Peak with Frequency 852.4875?

16 A No.

17 Q Okay. Prior to requesting this note, did you know
18 that there was a license in your name for an SMRS base
19 station at Rasnow Peak?

20 A I don't recall.

21 Q Prior to requesting this note, did you have any
22 sort of oral agreement with Mr. Kay concerning a business
23 relationship related to SMRS stations?

24 A No.

25 Q Prior to requesting this note, had you ever had

1 any sort of discussions with Mr. Kay concerning a business
2 arrangement between himself and you related to SMRS
3 stations?

4 A No.

5 JUDGE CHACHKIN: Do you have these licenses? Are
6 they available?

7 MR. SCHAUBLE: Some of these licenses I am going
8 to be going through.

9 JUDGE CHACHKIN: You are going to? They are in
10 the exhibits?

11 MR. SCHAUBLE: There are licenses in the exhibits,
12 Your Honor. We will go through those.

13 JUDGE CHACHKIN: All right. It seems it might
14 help the witness in giving his answers if he had the
15 licenses before him and the dates of the licenses.

16 BY MR. SCHAUBLE:

17 Q Mr. Cordaro, please direct your attention to WTB
18 Exhibit 317.

19 A 317?

20 Q 317.

21 A Okay.

22 Q Have you seen this document previously?

23 A Yes.

24 Q Would you please describe what it is?

25 A It's a license.

1 Q Can you tell from reviewing this license what sort
2 of station is authorized under this license?

3 A What type of license this is? It looks like a
4 repeater license.

5 Q Okay. Do you recall when you first saw this
6 document?

7 A No.

8 Q Okay. Mr. Cordaro, do you see the address on this
9 license?

10 A Yes.

11 Q What is that address?

12 A This was my previous home.

13 Q Okay. Do you recall receiving a copy of this
14 license shortly after the issue date, which is September 30,
15 1992?

16 A I don't recall.

17 Q Do you recall any conversations with Mr. Kay
18 concerning obtaining this license?

19 A No.

20 Q Now, do you see under this license that the
21 transmitter sites listed are Santiago Peak and Sunset Peak?

22 A Yes.

23 Q Do you know if this station was ever constructed?

24 A No, I don't.

25 Q Did you have any role in constructing this